

Mr. Swift stated that what they used was digital lighting, which is not allowed according to the Code. He went on to say that, in the past, the couple of digital signs that were approved were amber in color. He said that they could make it amber, but would still need to get the variance for the digital sign. He then stated that, originally, he was told that the lighting of the sign was to remain the same and that it was just going to be replaced.

Mr. Bitner said when the sign guy filled out the application, he put “LED for prices and Florescent for other”.

Mr. Swift stated that he also underlined the word “Florescent”. He went on to reiterate that Mr. Mehta, upon applying for the permit, stated that the lighting of the sign was to remain the same and that it was just going to be replaced.

Mr. Mehta stated that he was told it was underlined to imply that they were not changing that part of the sign.

Board Member Boyd asked if red is the standard color.

Mr. Bitner stated that red is the standard color other gas stations use for regular fuel except for BP who uses green.

Board Member Boyd asked why the Planning Commission recommended denial of the petition.

Mr. Swift stated that the Code states that the lighting must be white and either direct or diffused. He went on to say that Mr. Mehta lead the Code Office to believe he was simply replacing the sign and keeping the same type of lighting, which he did not do.

Board Member Personti asked if white LEDs would be accepted by the Code.

Mr. Swift stated that although the light would be white, it would have to be diffused or direct.

Board Member Boyd asked if the applicant made the sign amber in color if it would meet the Code.

Mr. Swift stated that they would still need a variance due to the fact that the lighting being used would not be direct or diffused.

Board Member Boyd stated she feels that LED lighting should no longer be left out of the Code. She went on to say that the Code was written awhile ago and as more energy efficient things come along in the lighting business she doesn't think we should exclude them. She then stated that, as these issues come up, we may want to make changes to the Code accordingly.

Casey Patel introduced himself as a co-owner of USA Gas DE and a color chemist. Mr. Patel asked if the Code has any color specifications for the lighting to be used in signs.

Mr. Swift stated the only specifications stated are that they can be illuminated, but such light shall be direct or diffused.

Town Manager stated that “direct” means one would shine a light source directly onto the sign. He then said that “diffused” means to place the light source behind the sign. He went on to say that nothing means “LED”, and that LED lighting by itself, is not permitted.

Chairman Chalfant asked if Mr. Mehta put the sign up before he received the permission from the Town.

Mr. Mehta stated that Gulf contacted him, and said they wanted their sign back. He said he told Mr. Swift that they wanted to replace the sign with a sign of the same size. He went on to say that he filled out the parts on the Sign Permit Application which he knew and had the engineer fill out the specifications. He then said that he submitted that application, received the permit, and then put up the sign. Mr. Mehta went on to say that if he was told at that time that the sign was not permitted, he could’ve went back to the company and put up a sign that met the Town’s Code.

2nd District Councilman Steve Burg introduced himself. He stated that the Gas Station is in his district. He said he, personally, doesn’t care what color the lighting for the sign is. He went on to say that the issue he has is that the rules were broken. He stated that Mr. Mehta came in and got a permit for one thing, but went on to put up something else. He went on to say that it’s unfortunate that his engineer led him down the wrong path and that the engineer should’ve known the Town’s laws.

Mr. Bitner said he wanted to point out that on the bottom of the application it states, “LED for prices, and Florescent for other”, and that’s what was put up.

Mr. Swift stated that the contractor had underlined the word “Florescent” though, and that’s what the entire sign should’ve been.

Mr. Giles stated that Exhibit 12-2 E does not appear to be the Town’s application and that it is what someone else wrote. He then asked if people can see the sign coming from Wilmington.

Mr. Mehta said yes.

Mr. Giles then asked if people could see the sign coming from Kirkwood Hwy.

Mr. Mehta said yes.

Mr. Giles then stated that at the bottom of Exhibit 12-2 E it states that the sign was to be one-sided, and they put up a 2-sided sign. He stated, therefore, Mr. Mehta did not put up what the application stated they were.

Chairman Chalfant stated he feels that the whole thing is one big mess of miscommunication. He then said that maybe the Code in New Jersey allows such things, but the Code in the Town of Elsmere does not, and they must abide by that Code.

Board Member Personti voiced his opinion in regard to the section of the Code saying that he feels it should be changed because the type of lighting in question is the future.

Board Member Boyd agreed. She also pointed out that on Exhibit 12-2 F it does state that the sign will be 2-sided.

Mr. Giles stated he recognizes that it does, in fact, state the sign would be 2-sided.

ACTION: A motion was made by Board Member Personti to approve Petition 12-2, to grant the variance for the sign as it stands. The motion was seconded by Board Member Boyd who also asked that the Council and/or Planning Committee look into adding LED lighting into the Code.

VOTE: 4 in favor - 1 opposed Motion Carried

Review Petition 12-3 Tax Parcel # 1900-400-566 also known as 930 Kirkwood Hwy.

Mrs. Kathy Jo Corea, who is the tenant at the rental property at 930 Kirkwood Hwy, did not appear before the Board to present her reason for filing the appeal.

The Citation # V2-00011, was issued on February 1, 2012 which alleged a violation of section 71-8 A (1) of the Town of Elsmere Code (It shall be a violation against the owner or one who harbors any animal which defecates upon, any public property, other than in areas designated for that purpose.)

Craig Hanna, Secretary of the Code Enforcement Office, stated that the applicant was given notice of the meeting by mail on February 17th, the day the appeal was filed.

ACTION: A motion was made by Board Member Smith to deny the appeal of Citation # V2-00011. The motion was seconded by Board Member Boyd.

VOTE: All in favor Motion Carried

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None

PUBLIC COMMENT: None

ADJOURNMENT:

ACTION: A motion was made by Board Member Personti to adjourn. The motion was seconded by Board Member Boyd.

VOTE: All in favor Motion Carried

At this time the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the February 28, 2012 Board of Adjustment Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

PAUL CHALFANT, CHAIRMAN

JAMES PERSONTI, SECRETARY